IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7728 of 1989

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAMTABEN N PATEL

Versus

PRINCIPAL

Appearance:

MR YN OZA with MR NS DESAI for Petitioner

MR ND GOHIL AGP for Respondent Nos.1 TO 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 07/04/2000

ORAL JUDGEMENT

Heard Mr. N.S.Desai, learned advocate appearing for the petitioner and Mr. N.D.Gohil, learned AGP.

The petitioner had sought admission to ATD (Art Teacher's Diploma) course for the academic year 1989-90

in The New Progressive Arts Teachers Training College, Mehsana, the respondent no.1 herein. Pursuant to the instructions issued by the Director of Education, by order dated 24th October, 1989, her admission to ATD course was cancelled. Feeling aggrieved, the petitioner has preferred the present petition. By order dated 29th November, 1989, the petition was admitted to final hearing and by an interim order, the petitioner was allowed to resume her studies in the respondent no.1 college subject to the result of the petition. The petition is contested. One Shri D.A.Vora, Legal Officer in the Directorate of Higher Education, has made the counter-affidavit. It is stated that the petitioner had passed SSC Examination without the subject of Drawing, but had passed her Intermediary Drawing Examination in 'C' Grade. Thus, believing that the petitioner had secured 45% marks at the Intermediary Drawing Examination, the petitioner had been given admission to ATD course. However, on further scrutiny, it was found that the petitioner had actually secured 37% marks in the Intermediary Drawing Examination. Considering 37% marks obtained by her, she secured 65% marks in the merit list for admission to ATD course. However, last of the admissions granted to the said course was 65.43 % marks. Thus, the petitioner fell short of the last admission, and accordingly, her admission was ordered to be cancelled.

Be it noted that the petitioner was granted admission erroneously. However, it can not be said that the petitioner had mis-led the authorities in believing that she has secured 45% marks instead of 37% marks. It was only on account of short-fall in her marks, that she was denied admission, but neither for want of eligibility nor for misrepresentation. Since in view of the interim order made by this court, the petitioner had pursued her education and has probably completed the course also, I do not consider it expedient to interfere with the same after all these years.

In view of the above discussion, the petition is allowed. The impugned order dated 24th October, 1989 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute accordingly. There shall be no order as to costs.

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JOSHI